

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

In re: : Chapter 13
Derrick H. Garner, :
Debtor : Bankruptcy No. 17-11514

DEBTOR'S MOTION TO VACATE ORDER DISMISSING CHAPTER 13 CASE

John S. Di Giorgio, Esquire, attorney for Debtor, Derrick H. Garner, makes this Motion to Vacate Order Dismissing Chapter 13 Case entered on August 26, 2020, pursuant to Trustee's Motion to Dismiss.

1. Debtor has fallen behind in his payments because of health issues.

2. On or about July 29, 2020, at the time of the last previous listing in this matter, Debtor, already in poor health, was rushed to the hospital for treatment of Covid-19.

3. Debtor is presently hospitalized at Holy Redeemer Hospital, 1648 Huntingdon Pike, Meadowbrook, Pennsylvania 19046.

4. In view of the health issue, the Trustee continued the hearing of this matter to August 26, 2020.

5. Undersigned counsel was made aware that Debtor's prognosis was very poor, perhaps terminal. Debtor had only limited access to telephone contact.

6. Under these dire circumstances, counsel inadvertently failed to make a note of the rescheduling of the hearing on August 26, 2020, before the Honorable Judge Chan.

7. Neither counsel nor Debtor appeared at the hearing, and the Court issued an Order Dismissing the Chapter 13 Case, a copy of which is attached.


8. Counsel was completely taken aback by the Order and took immediate steps to file the instant Motion.

9. Debtor remains hospitalized in serious condition.

10. If the dismissal remains on the record, Debtor will lose his residence, will be extremely ill, and will be homeless.

11. The Court has recognized the current pandemic crisis requires recognition that "normal operation of law" may be affected. Notice on Misc. No. 20-3005 Status of Court Proceeding.

WHEREFORE, Debtor, Derrick H. Garner, respectfully requests the Order of August 26, 2020, dismissing Debtor's Chapter 13 Case be vacated and the matter be restored to its prior status.



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Attorney for Debtor,
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DATE: August 28, 2020

cc: Scott F. Waterman, Esquire, Standing Chapter 13 Trustee
Polly A. Langdon, Esquire

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

In Re:

DERRICK H. GARNER

Debtor

Chapter 13

Bankruptcy No. 17-11514-JKF

ORDER DISMISSING CHAPTER 13 CASE

AND NOW, after notice and hearing, it is ORDERED that the case is DISMISSED.

IT IS FURTHER ORDERED that any undisbursed funds held by the Chapter 13 Trustee from payments made on account of the Debtor's plan shall be refunded to the Debtor unless a party in interest files a Motion for Alternative Disbursement within 21 days of the entry of this Order.

IT IS FURTHER ORDERED that any wage order entered in this case is hereby TERMINATED and the employer shall cease wage withholding immediately.



Date: August 26, 2020

JEAN K. FITZSIMON
U.S. BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

In re: : Chapter 13
Derrick H. Garner, :
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ORDER VACATING ORDER DISMISSING CHAPTER 13 CASE

AND NOW, after notice and hearing, it is ORDERED that the Order entered on August 26, 2020, be VACATED.

It is further ORDERED the automatic stay entered in this case is reinstated.

ASHELY M. CHAN
U.S. Bankruptcy Judge